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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 DRESDEN MICHAEL WILLIAMS,

Case No. 2:18-cv-00807-APG-CWH

10 Petitioner,

ORDER

11 v.

12 JERRY HOWELL, et al.,

13 Respondents.

14 Petitioner Dresden Michael Williams has submitted a *pro se* petition for writ of
15 habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). He has not submitted a
16 completed application to proceed *in forma pauperis* or paid the filing fee. Accordingly,
17 this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule
18 LSR1-2.

19 It does not appear that a dismissal without prejudice would cause petitioner
20 substantial prejudice or affect application of the limitations period in this case. This
21 improperly commenced action therefore will be dismissed without prejudice.¹

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24 ¹ The conviction challenged in this case arises out of Case No. 08C240317 in Eighth Judicial District Court.
25 Based on the petition and that court's docket, petitioner's conviction in that case has been final for several
26 years and had been final for several years before he filed his first state postconviction habeas petition on
27 April 20, 2015 (ECF No. 1-1, p. 1). By that time, both the federal and state limitations periods had already
28 expired. The state courts dismissed the state petition on the grounds that it was untimely. In state court,
petitioner asserted a claim of actual innocence as a way to avoid the procedural bar, and he appears to do
the same in this case cite. Accordingly, dismissal of the instant petition without prejudice is unlikely to affect
the analysis of the timeliness of the petition in this case. The court also notes that petitioner states on the
face of this petition that a previous federal petition, Case No. 2:18-cv-00537-JCM-NJK was dismissed
without prejudice for failure to pay the filing fee (ECF No. 1-1, p. 2). Therefore, Williams has prior notice of
the requirements to properly commence a federal habeas petition.

1 **IT IS THEREFORE ORDERED** that this action shall be dismissed without
2 prejudice to the filing of a new habeas petition in a new case. Petitioner shall file no
3 more documents in this closed case.

4 **IT IS FURTHER ORDERED** that a certificate of appealability is denied. Jurists of
5 reason would not find debatable whether the court was correct in its dismissal of the
6 action without prejudice on procedural grounds, for the reasons discussed herein.

7 **IT IS FURTHER ORDERED** that the motion for appointment of counsel (ECF No.
8 3) is **DENIED** as moot.

9 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner a copy of his
10 papers in this action, along with copies of the forms and instructions for an inmate
11 *pauper* application and habeas petition.

12 **IT IS FURTHER ORDERED** that the Clerk shall enter final judgment accordingly,
13 dismissing this action without prejudice.

14 DATED: 2 July 2018.

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18 ANDREW P. GORDON
19 UNITED STATES DISTRICT JUDGE
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